

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
OCT 4 1991

Dear Sir or Madam:

We have considered your application for recognition of exception from Federal income tax under section 501(c)(4) of the Internal Revenue Code.

The information submitted discloses that you were organized on [REDACTED] as a condominium regime established under [REDACTED] Revised Civil Statutes. Your purpose is to serve the members by maintaining the common areas of [REDACTED], which are the common areas surrounding [REDACTED] office buildings situated on [REDACTED] acres. In maintaining the common areas, every effort is made to provide convenient, safe and pleasant access for the public when conducting their business on the property and to maintain the areas in a tasteful and attractive environment for the community as a whole. Membership is required by all building owners in order too ensure that all building property common areas is maintained consistently and for the convenience of each building owner. The income derived from the regime is exclusively from dues for the membership for the sole purpose of maintaining these common areas in order to ensure that the common property is properly maintained and to provide pleasant surroundings for the entire community. The entity is a condominium association, but not a homeowners' association and the entity does not benefit any individual personally.

The activity began in [REDACTED]. From inception through [REDACTED] you filed tax returns as a homeowners' association. You felt that the regime does not qualify to file as a homeowners' association because none of the fees received are from member-owners of residential units.

code	Initiator	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
urname	[REDACTED]						

The Council of Co-Owners has a hired managing agent who manages and operates the common elements for all member-owners. All activity occurs within an office building on the property.

In Form 1024, Schedule B, Item 2, you state:

"Intent is to maintain the common areas for the benefit of members owners and their clients, guests and the general public, to include; after hours security, landscape maintenance parking areas, trash disposal, and an on-site sewer treatment plant. Additionally, the owners allow for the monthly collection and disbursement of maintenance fees to off-set expenses for the above services. Owners share equally, paying \$. [REDACTED] per square foot of building space they own individually. Some funds temporarily in excess of immediate needs are invested in short term interest bearing accounts from time to time. Maintenance of the common areas is intended to be tasteful, attractive, and provide convenient, safe and pleasant access for the public when conducting their business on the property. Overnight collection boxes are maintained on the property for the benefit of the public."

Review of the statement of revenue and expenses reveals that the following expenses were paid by the regime:

- | | |
|---------------------------------|----------------------------|
| a. Building repairs/maintenance | h. Water |
| b. Lighting/electrical | i. Sewage treatment plant |
| c. Insurance expenses | j. Uncollected member fees |
| d. Management fees | k. Sprinkler repairs |
| e. Trash disposal | l. Grounds parking lot |
| f. Security | m. Legal |
| g. Electricity | n. Accounting |

Substantially all of the expenses were related to the purchase and maintenance of landscaping, including trees, shrubbery and installation of a spray water system.

You also review all planned site improvements within [REDACTED] to ensure they conform with certain standards.

Section 501(c)(4) of the Internal Revenue Code provides exemption for:

"Civic Leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare..."

Section 1.501(c)(4)-1(a)(2)(i) of the Income Tax Regulations provides that:

"An organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community. An organization embraced within this section is one which is operated primarily for the purpose of bringing about civic betterment and social improvements."

[REDACTED]

Revenue Ruling 75-286, 1975-2 C.B. 210 holds that an organization with membership limited to the residents and businesses within a city block and formed to preserve and beautify the public areas in the block qualified for exemption under section 501(c)(4). The areas beautiful were between the sidewalks and the street. Support was from contributions and fund-raisers. Activities included providing funds to the city to plant trees and picking up litter in the streets.

Revenue Ruling 74-17, 1974-1 C.B. 130 states that an organization formed by unit owners of a condominium housing project to provide for the management, maintenance, and care of the common areas of the project, as defined by state statute, with membership assessments paid by its unit owners does not qualify for exemption under section 501(c)(3) of the Code.

The organization did not qualify for exemption under section 501(c)(4) because the essential nature and structure of a condominium system of ownership, its rights, duties, privileges, and immunities of the members of an association of unit owners derive from and are established by, structuring and compulsarily tied to the owner's acquisition and enjoyment of the property in the condominium. Additionally, condominium ownership requires the maintenance and care of many common areas which necessarily constitutes the provision of private benefits for unit owners.

To qualify for exemption under section 501(c)(4) of the Code, an organization must be providing benefits which primarily benefit a general community as opposed to benefiting some private interest. While there may be some public benefit to be derived from your landscaping of public right of way, we believe that far greater benefit is to the [REDACTED] [REDACTED]. Your extensive landscaping, grey water treatment systems and maintenance of facilities serves to enhance, improve and maintain the appearance of [REDACTED] and the individual businesses located therein. Activity of this nature is a common business expense for business developments.

We believe your operations are distinguishable from those of the organization described in Revenue Ruling 75-286 (supra). In your case, membership is not voluntary and you are supported by mandatory assessments rather than donations. Your membership is composed of only the occupants of a particular business development unlike the membership of the organization described in Revenue Ruling 75-286 (supra), which included the unrelated residents and businesses of a city block. In that case, it could not be said that the organization's activities only benefitted a single private interest. Further, your activities will extend much further in that your landscaping is not limited to that area between sidewalks and public streets, but will include all land areas within [REDACTED]. We conclude that the private benefit to you is much more than merely incidental.

Further your reviewing and enforcing covenants and restrictions serves to benefit [REDACTED] [REDACTED] [REDACTED] by maintaining the integrity of the development.

Accordingly, because we have determined that your operations serve to promote the private economic interest of [REDACTED], tax exempt status under section 501(c)(4) is denied. You should file Federal income tax returns.

If you agree with these conclusions or do not wish to file a written protest, please sign and return Form 6018 in the enclosed self-addressed envelope as soon as possible.

If you do not agree with these conclusions, you may, within 30 days from the date of this letter, file in duplicate a brief of the facts, law, and argument that clearly sets forth your position. If you desire an oral discussion of the issue, please indicate this in your protest. The enclosed Publication 892 gives instructions for filing a protest.

If you do not file a protest with this office within 30 days of the date of this report or letter, this proposed determination will become final.

If you have any further questions, please contact the person whose name and telephone number are shown at the beginning of this letter.

Sincerely,

[REDACTED]
District Director

Enclosures:
Publication 892
Form 6018
Form 1120

cc: [REDACTED]